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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,525	10/01/2003	Osamu Otsuka	DP-970 US	5371

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EXAMINER

KIM, HONG CHONG

ART UNIT	PAPER NUMBER
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2185

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,525

Applicant(s)

OTSUKA, OSAMU

Examiner

Hong C. Kim

Art Unit

2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,9,10,12,13,17,18,20,21 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 3 6-8 11 14-16 19 22-24 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. Claims 1-28 are presented for examination. This office action is in response to the amendment filed on 4/6/2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 5, 9, 10, 12, 13, 17, 18, 20, 21, 25, 27, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior art (AAPA) pages 1-17 and Fig. 1.

As to claims 1, 4, 9, 12, 17, 20, 25, and 26, AAPA discloses a mobile terminal (Fig. 1) with a memory section (page 3 lines 8-12) and manual memory allocation and deallocation (page 4 lines 20-24), however AAPA does not specifically disclose a server.

AAPA (2001-358753) discloses a server (page 5 lines 10-14 and page 6 lines 8-9) for the purpose of storing large data thereby prevent data loss.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a server as taught by AAPA into the system of AAPA for the advantages stated above.

AAPA discloses the invention as stated above, however, AAPA does not specifically disclose a management apparatus for memory capacity, comprising: a data capacity management means, a transmission judging means and a transmitting means.

AAPA (2001-184240) discloses a management apparatus (page 5 lines 15-27) for memory capacity, comprising: a data capacity management means (page 5 lines 16-17), a transmission judging means that judges in response to a request for data and a vacant storage capacity of a memory issued from a remote terminal (page 5 lines 19-21) and a transmitting means (page 5 lines 22-27) for the purpose of providing capacity control mechanism between two devices.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a data capacity management means, a transmission judging means and a transmitting means as taught by AAPA into the system of AAPA for the advantages stated above.

AAPA further discloses a management server (col. 6 lines 8-9).

As to claims 2, 5, 10, 13, 18, 21, and 27, AAPA further discloses renews the vacant capacity (page 5 lines 15-27).

Allowable Subject Matter

3. Claims 3, 6-8, 11, 14-16, 19, 22-24, and 28 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim, any intervening claims and overcome claim objections.

Response to Arguments

4. Applicant's arguments filed on 4/6/06 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, AAPA (2001-184240) discloses a management apparatus (page 5 lines 15-27) for memory capacity, comprising: a data capacity management means (page 5 lines 16-17), a transmission judging means that judges in response to a request for data and a vacant storage capacity of a memory issued from a remote terminal (page 5 lines 19-21) and a transmitting means (page 5 lines 22-27) for the purpose of providing capacity control mechanism between two devices thereby prevent system crash and data error.

Applicant's remarks on page 21 that the references not teaching a server is not considered persuasive.

AAPA (2001-358753) discloses a server (page 6 lines 8-9) and a mobile terminal obtains the data storing in the server.

Applicant's remarks on page 22 that the references not teaching a transmission judging means that judges in response to a request for data and a vacant storage capacity of a memory issued from a remote terminal is not considered persuasive.

AAPA (2001-184240) discloses a management apparatus (page 5 lines 15-27) for memory capacity, comprising: a data capacity management means (page 5 lines 16-17), a transmission judging means that judges in response to a request for data and a vacant storage capacity of a memory issued from a remote terminal (page 5 lines 19-21) and a transmitting means (page 5 lines 22-27).

Therefore broadly written claims are disclosed by the references cited.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

2. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. When responding to the office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections. See 37 C.F.R. ' 1.111(c).

4. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist examiner to locate the appropriate paragraphs.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Kim whose telephone number is (571) 272-4181. The examiner can normally be reached on M-F 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on (571) 272-4182. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 whose telephone number is (571) 272-2100.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7. **Any response to this action should be mailed to:**

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to TC-2100:
571-273-8300

Hand-delivered responses should be brought to the Customer Service Window (Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

HK
Primary Patent Examiner
May 10, 2006

